

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
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FOI/PA# 1218644-0

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**Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET**

DATE OF DOCUMENT: 06/28/2013
DATE RECEIVED: 07/01/2013

WORKFLOW ID:
DUE DATE: 7/19/2013

b7E per OIP

FROM: The Honorable Paul C. Broun*
U.S. House of Representatives
Washington, DC 20515-0001

TO: AG

MAIL TYPE: Congressional Priority

SUBJECT: (Rec'd from OLA via email) Regarding FBI Director Mueller's testimony on 06/19/13, in which he revealed that the FBI has used drones an indeterminate number of times for domestic surveillance. Mentions that DOJ has not provided Congress with information as to exactly how and when the domestic federal law enforcement has used drones for surveillance. Requesting answers to the enclosed questions. Ltr also signed by 18 other MCs. (NOTE: No record in ES of 06/19/13 hearing.) See WH and other related corres in ES.

b7E per OIP

DATE ASSIGNED
07/02/2013

ACTION COMPONENT & ACTION REQUESTED
FBI
Prepare response for AAG/OLA signature.

INFO COMPONENT: OAG, OAG ODAG, ATF, DEA, OLA

b6 per OIP
b7C

COMMENTS: ExecSec date/time stamp: 07/01/2013 12:31PM

FILE CODE:

EXECSEC POC:

b6 per OIP
b7C

CREW-3507

PAUL C. BROWN, M.D.
10TH DISTRICT, GEORGIA

COMMITTEE ON
HOMELAND SECURITY

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY
CHAIRMAN, INVESTIGATIONS AND
OVERSIGHT SUBCOMMITTEE

COMMITTEE ON
NATURAL RESOURCES

Congress of the United States
House of Representatives
Washington, DC 20515-1010

WASHINGTON OFFICE:
2437 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-4101
FAX: (202) 226-0776

WEB: BROWN.HOUSE.GOV

June 28, 2013

The Honorable Eric Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Attorney General Holder:

In his June 19th testimony before the Senate Judiciary Committee, FBI Director Robert Mueller revealed that the Bureau has used drones an indeterminate number of times for domestic surveillance. While news reports indicate this has happened on at least four occasions, the Department of Justice has not provided Congress with information as to exactly how and when our domestic federal law enforcement has used drones for surveillance. At the same time, according to Director Mueller, there is no clear policy in place which governs the use of drones in this capacity. In any situation this would be troubling, but in light of recent developments regarding domestic surveillance we find it deeply disturbing.

While Director Mueller indicated that the FBI is currently developing policies to protect Americans' privacy and civil liberties, it seems that Pandora's box is already open. Our first and foremost priority should be to defend the Constitutionally-protected rights of Americans. It should never be an afterthought.

There is no question that drones can serve a valuable purpose. By allowing our military and our border patrol to cover more space and collect more intelligence at a lower risk and cost, they can be a fiscally and operationally useful tool. However, with this evolving technology, we as a government must carefully define how and where these aircraft may be used within the bounds of the Fourth Amendment.

When the FBI and other agencies bypass the Constitution and its limits – regardless of their intentions – it paves the way to a dramatic expansion of the size and scope of the federal government. By all appearances this domestic drone program is headed down that path. It must be reined in with clear usage policies and made transparent before it grows any further.

As such, we respectfully ask that you provide the following information concerning domestic usage of drones so that we can provide appropriate Congressional oversight:

ATHENS
3706 ATLANTA HIGHWAY
SUITE 2
ATHENS, GA 30606
PHONE: (706) 549-9598
FAX: (706) 549-9590

PRINTED ON RECYCLED PAPER

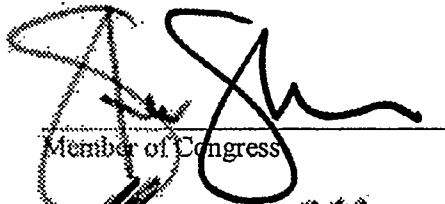
CREW-3508

Letter to Attorney General Holder
June 28, 2013

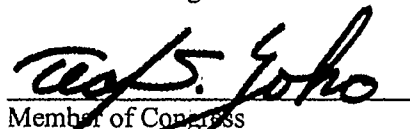
1. On what occasions has an agency within the Department of Justice used a drone for domestic surveillance, and under what circumstances?
2. What agencies within the Department of Justice have used, or have plans to use drones, for any purpose?
3. What drones models have been used, or are planned to be used by the Department, and in what quantity?
4. Are there any plans for using drones with offensive capabilities, lethal or non-lethal, and has the Department requested industry participation to that end?
5. At what point do you anticipate releasing guidelines for the Department's usage of drones, and what steps are you planning to take to ensure the usage is transparent?
6. Does the Department intend to continue conducting drone operations prior to instituting clear-cut policies to protect Americans' civil liberties?

We appreciate your attention to this matter, and look forward to working with the Department of Justice to ensure drone use is restricted and appropriate.

Sincerely,

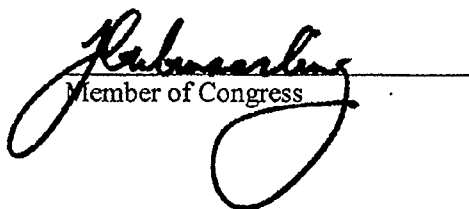

Member of Congress

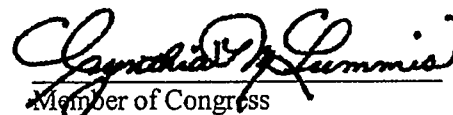

Member of Congress


Member of Congress

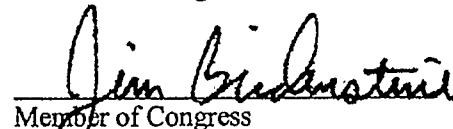

Member of Congress


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Member of Congress


Member of Congress



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Member of Congress


Member of Congress

Letter to Attorney General Holder
June 28, 2013



Member of Congress



Member of Congress



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Member of Congress

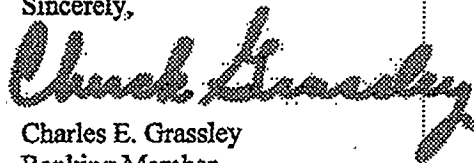


Member of Congress

- (7) How many times has the FBI deployed drones on U.S. soil? Provide dates and locations where drones were utilized.
- (8) Does the FBI have agreements in place with the Department of Defense or Department of Homeland Security, or any other agency, to share drone airframes and/or information obtained based upon drone use?
- (9) What limitations are placed on the use of drones?
- (10) Does the FBI inform the Judicial Branch prior to deployment of drones? If not, why not?
- (11) Does the FBI obtain search warrants or other prior judicial approval before deploying drones on U.S. soil?
- (12) Are any of the drones utilized by the FBI armed or capable of being armed?
- (13) Are any of the drones utilized by the FBI carrying, or capable of carrying, non-lethal weapons?
- (14) Has the FBI coordinated drone use and tactics with DEA and ATF? If not, why not?
- (15) Who operates the FBI's drones? Is it a Special Agent trained in search and seizure law, FBI pilot, or another employee of the FBI?
- (16) Who at the Department or FBI authorized the use of drones by the FBI?

Thank you for your prompt attention to this important matter. I appreciate your response no later than June 28, 2013.

Sincerely,


Charles E. Grassley
Ranking Member

Attachment

Cc: The Honorable Patrick Leahy
Chairman

The Honorable Robert S. Mueller, III
Director
Federal Bureau of Investigation

Congress of the United States
Washington, DC 20515

July 1, 2013

The Honorable Robert Mueller
Director
Federal Bureau of Investigation
935 Pennsylvania Ave., NW
Washington, DC 20535

Dear Director Mueller:

On Jun. 19th, you testified before the Senate Judiciary Committee that the Federal Bureau of Investigation (FBI) used unmanned aerial systems (UAS – “drones”) to conduct surveillance in the United States. You explained that the FBI has few UAS and that their use was limited, though you also stated that the FBI was still developing guidelines regarding the appropriate use of the UAS for domestic surveillance.

As the authors of the Preserving American Privacy Act (H.R. 637), we believe it is imperative to establish rules for the government's domestic use of UAS to ensure transparency, privacy protection, and restrictions on arming UAS. As you know, unmanned systems are a promising technology that can advance innovation, economic growth, and scientific research. However, existing laws and jurisprudence – outpaced by technology – provide very few meaningful limits on UAS surveillance of individuals out of the home. UAS can enable the government to conduct physical surveillance at a degree of intrusiveness that we believe to be inconsistent with Fourth Amendment principles. We further believe that widespread apprehension of improper government use of UAS domestically is hindering the UAS industry in its efforts to gain broad public and commercial acceptance.

Until your testimony, we were not aware that the FBI was already conducting domestic surveillance with UAS as part of the FBI's law enforcement practices, and that the FBI was doing so in the absence of clear protective guidelines. With regard to those guidelines, we urge the FBI to explicitly

- Require that its officers obtain a warrant prior to using UAS to conduct domestic surveillance targeted at a particular individual suspected of criminal activity, absent an emergency;
- Require that its officers obtain a court order and provide public notice prior to using UAS to conduct domestic surveillance in the absence of particularized suspicion; and

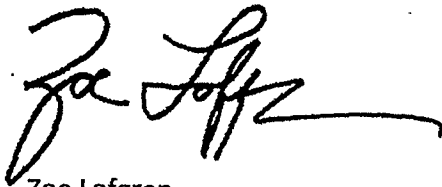
- Forbid the domestic use of UAS armed with lethal weapons.

In addition, we respectfully request that you provide us with written answers to the following questions as soon as possible. To the extent that the information we seek is classified, please provide us with a general summary – otherwise, please be as specific as possible.

- Does the FBI envision incorporating UAS into its future law enforcement practices in the interior – rather than the border – of the United States?
- At what stage of development are the FBI domestic UAS guidelines? With which agencies and departments is the FBI collaborating in the development of its domestic UAS guidelines? Does the FBI intend to make its domestic UAS guidelines publicly available?
- Is the FBI considering UAS surveillance over a wide area for general crime prevention and security, in absence of particularized suspicion? Does the FBI support a requirement that it obtains a court order and provide public notice in such circumstances?
- Does the FBI support a warrant requirement to use UAS to target specific individuals outside of the home in non-emergency circumstances?
- Is the FBI considering the domestic use of UAS armed with lethal or non-lethal weapons? Does the FBI support a blanket prohibition on arming non-military UAS with lethal weapons?
- In what specific instances has the FBI used UAS for domestic surveillance? What general class of information was gathered in those instances? Did the information contribute to an indictment or conviction? Was information related to individuals not suspected of criminal activity also collected? How long was this information retained?

Thank you for your attention to this matter.

Sincerely,



Zoe Lofgren
Member of Congress



Ted Poe
Member of Congress

WASHINGTON, DC 20535-0275

CREW-3515

submitted to the Federal Aviation Administration as part of a collective effort of the Department regarding the use of drones.⁵ However, the only mention of the FBI's use of drones relates to limitations and compliance with the Attorney General guidelines stating, "FBI's use of UASs must comport with the Attorney General's Guidelines for Domestic FBI Activities and the FBI's own Domestic Investigations and Operations Guide (Section 4 "Privacy and Civil Liberties, and Least Intrusive Methods")."⁶ While this statement indicates that the FBI is at least contemplating the use of drones, it does not provide details regarding the FBI's use of drones as the response does for the DEA and ATF.

Based upon this cryptic response about the FBI's use of drones, I asked Director Mueller about this matter during today's FBI oversight hearing. I asked, "Does the FBI own or currently use drones? And if so, for what purpose?"⁷ Director Mueller responded, "Yes, and for surveillance."⁸ I also asked whether the FBI had policies and procedures in place regarding the use of drones to which Director Mueller responded, "We are in the initial stages of doing that. And, I will tell you that our footprint is very small. We have very few and have limited use, and we're exploring not only the use but also the necessary guidelines for that use."⁹ Finally, I asked if the FBI's use of drones was on U.S. soil and Director Mueller confirmed that the FBI does use drones on U.S. soil.

This exchange with Director Mueller raises some concerns about the completeness of the previous response you provided to my written question. Specifically, if the FBI is actively using drones on U.S. soil, why was that fact not included in a detailed format as was done with the DEA and ATF information? Accordingly, I ask that you fully respond to this question, as well as the following questions.

- (1) When did the FBI begin using drones?
- (2) Has the FBI sought certification and/or prior approval for use of drones on U.S. soil with the FAA? If so, when?
- (3) How many drones does the FBI currently possess? Please provide make and model information as well as the costs for these systems.
- (4) What are the approved uses of drones by FBI agents?
- (5) Who must sign off on the use of drones for surveillance on U.S. soil? What about instances where drones are used abroad?
- (6) When did the FBI first use a drone for domestic purposes?

⁵ *Id.*

⁶ *Id.*

⁷ Senator Charles E. Grassley and Director Robert Mueller, Hearing on FBI Oversight, Senate Judiciary Committee, June 19, 2013, available at <http://eq.com/doc/congressionaltranscripts-4298935?print=true>.

⁸ *Id.*

⁹ *Id.*

**Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET**

DATE OF DOCUMENT: 06/19/2013
DATE RECEIVED: 06/21/2013

WORKFLOW ID:
DUE DATE: 6/25/2013

b7E per OIP

FROM: The Honorable Charles E. Grassley*
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

TO: AG (cc indicated for FBI Mueller)

MAIL TYPE: Congressional Priority

SUBJECT: (Rec'd from OLA via email) Ltr from RMM Grassley, Judiciary Comte, seeking clarification regarding the AG's written responses to questions for the record submitted as part of the 06/12/2012, hearing before the Senate Judiciary Comte entitled, Oversight of the Department of Justice. Seeking clarification based upon additional information provided to the Comte during the 06/19/13 oversight hearing with FBI Director Mueller. Enclosing Questions 39 & 40 that the MC submitted following the 06/12/12 hearing about the use of unmanned aircraft systems (USAs), commonly referred to as drones, by federal law enforcement agencies under DOJ. Requesting answers to the enclosed questions, NLT 06/28/13. See WF

b7E per OIP

DATE ASSIGNED
06/21/2013

ACTION COMPONENT & ACTION REQUESTED
FBI
Prepare response for AAG/OLA signature.

INFO COMPONENT: OAG, OAG ODAG, ATF, DEA, OLA

b6 per OIP
b7C

COMMENTS: 06/21/2013: Per FBI assign to FBI marking it extremely urgent with FBI providing a draft response to OLA by 06/25/13.
ExecSec date/time stamp: 06/21/2013 4:44PM

b6
b7C

FILE CODE:

EXECSEC POC:

b6 per OIP
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CREW-3511